

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KIMBERLY A. GUNDEN,

Plaintiffs,

v.

FOREST RIVER, INC.,

Defendant.

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CAUSE NO. 3:09-cv-276 TLS

REPORT AND RECOMMENDATION

On June 19, 2009, this matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) to conduct hearings, including evidentiary hearings, and submit proposed findings of fact and recommendations for the disposition of Plaintiffs' complaint. On November 9, 2010, this Court granted a motion to withdraw by Plaintiffs' counsel. This Court then ordered the Plaintiff to indicate whether she wished to retain substitute counsel or proceed *pro se* by December 13, 2010. After receiving no response, this Court issued an order to show cause directing Plaintiff to explain why she failed to comply with this Court's order and why her case should not be dismissed for failure to prosecute her claim. As of this date, Plaintiff has still not responded to this Court's initial order for a status report or the order to show cause, despite this Court's warning pursuant to Timms v. Frank, 953 F.2d 281, 285-86 (7th Cir. 1992) and Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to do so may result in a dismissal of their case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for her failure to prosecute her claim or to comply with court orders. Plaintiff has failed to comply with two court orders, and has provided no written documentation explaining her inaction. This Court can only assume

that Plaintiff has abandoned her case. Consequently, for the aforementioned reasons, this Court **RECOMMENDS** that Plaintiffs' case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). **FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.**

SO ORDERED.

Dated this 9th day of February, 2011.

S/Christopher A. Nuechterlein
Christopher A. Nuechterlein
United States Magistrate Judge

cc: Kimberly Gunden
57024 CR 23
Goshen, IN 46528